

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-1565-WQ-E TCEQ ID: RN105109011 CASE NO.: 36600
 RESPONDENT NAME: WARREN HUGHES DBA HUGHES DEVELOPMENT, INC.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: southeast of the intersection of Farm-to-Market Road 439 and Westcliff Road, Killeen, Bell County

TYPE OF OPERATION: residential subdivision construction site

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: One complaint was received. The complaint alleged that the best management practices were not being utilized for soil stabilization and the Notice Of Intent was not posted. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 15, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Water Enforcement Section, MC 149, (512) 239-2576

TCEQ Regional Contact: Mr. Frank Burtleson, Waco Regional Office, MC R-9, (254) 761-3001

Respondent: Mr. Warren Hughes, Owner, Hughes Development, Inc., 2420 Carson Street, Suite 220, Torrance, California 90501; Mr. Warren Hughes, Owner, Hughes Development, Inc., 1200 Monroe Loop, Killeen, Texas 76543

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: August 13, 2007</p> <p>Dates of Investigations Relating to this Case: July 18, 2008 (investigation) September 25, 2008 (record review)</p> <p>Date of NOE Relating to this Case: October 28, 2008</p> <p>Background Facts: The EDRP was filed February 9, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDRP on February 17, 2009, as evidenced by the signature on the card. The Respondent failed to answer the EDRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent owes \$220.60 in past due fees.</p> <p>Although the corporate charter for Hughes Development, Inc. was forfeited in 1981, the Respondent continues to utilize Hughes Development, Inc. as a trade name.</p> <p>WQ:</p> <p>1. Failed to obtain authorization to discharge storm water associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4); 40 CODE OF FEDERAL REGULATIONS § 122.26(c); and Texas Pollution Discharge Elimination System Construction General Permit No. TXR150000, Part II Section D1(b)].</p> <p>2. Failed to pay General Permits Storm Water fees for fiscal year 2007 and 2008 (TCEQ Financial Administration Account No. 20024375) [30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$7,280</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$7,280</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall implement the following corrective measures:</p> <ol style="list-style-type: none"> 1. Within 15 days, submit payment for all outstanding fees including any associated penalties and interest. 2. Within 30 days, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent and associated fees to TCEQ to comply with the Construction General Permit requirements. 3. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES

Assigned 2-Sep-2008

PCW 6-Jan-2009

Screening 27-Sep-2008

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Warren Hughes dba Hughes Development, Inc.

Reg. Ent. Ref. No. RN105109011

Facility/Site Region 9-Waco

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 36600

Docket No. 2008-1565-WQ-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 2

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Thomas Jecha

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum \$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$7,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 4.0% Enhancement

Subtotals 2, 3, & 7 \$280

Notes

Recommended enhancement for two NOV's with dissimilar violations issued to the site within the past five years.

Culpability

No

0.0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$0

Economic Benefit

Total EB Amounts \$178

Approx. Cost of Compliance \$2,100

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$7,280

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$7,280

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$7,280

DEFERRAL

0.0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

\$7,280

Screening Date 27-Sep-2008

Docket No. 2008-1565-WQ-E

PCW

Respondent Warren Hughes dba Hughes Development, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36600

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105109011

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 4%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Recommended enhancement for two NOVs with dissimilar violations issued to the site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 27-Sep-2008		Docket No. 2008-1565-WQ-E		PCW
Respondent Warren Hughes dba Hughes Development, Inc.		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36600		<small>PCW Revision June 12, 2008</small>		
Reg. Ent. Reference No. RN105109011				
Media [Statute] Water Quality				
Enf. Coordinator Thomas Jecha				
Violation Number 1				
Rule Cite(s)		30 Tex. Admin. Code § 281.25(a)(4), 40 Code of Federal Regulations § 122.26(c), and Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit ("CGP") No. TXR150000, Part II Section D1(b)		
Violation Description		Failed to obtain authorization to discharge storm water associated with construction activities. Specifically, authorization to discharge storm water associated with ongoing construction, previously authorized under TPDES CGP TXR150000 (effective March 5, 2003), expired on March 5, 2008.		
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			
				Percent 0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
				Percent 10%
Matrix Notes		100% of the rule requirement was not met.		
Adjustment				\$9,000
				\$1,000
Violation Events				
Number of Violation Events		Number of violation days		
mark only one with an x		daily		
		monthly	x	
		quarterly		
		semiannual		
		annual		
		single event		
				Violation Base Penalty \$7,000
Seven monthly events are recommended from the March 5, 2008 permit expiration date until the September 27, 2008 screening date.				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A		x	(mark with x)	
Notes		The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal				\$7,000
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$178		Violation Final Penalty Total \$7,280
This violation Final Assessed Penalty (adjusted for limits)				\$7,280

Economic Benefit Worksheet

Respondent Warren Hughes dba Hughes Development, Inc.

Case ID No. 36600

Reg. Ent. Reference No. RN105109011

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,000	5-Mar-2008	27-May-2009	1.23	\$8	\$164	\$172
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	5-Mar-2008	27-May-2009	1.23	\$6	n/a	\$6
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a new stormwater permit and develop and implement a new stormwater pollution prevention plan. The date required is the permit expiration date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,100

TOTAL

\$178

Screening Date 27-Sep-2008		Docket No. 2008-1565-WQ-E		PCW
Respondent Warren Hughes dba Hughes Development, Inc.		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36600		<small>PCW Revision June 12, 2008</small>		
Reg. Ent. Reference No. RN105109011				
Media [Statute] Water Quality				
Enf. Coordinator Thomas Jecha				
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>		
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 205.6 and Tex. Water Code § 5.702</div>		
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to pay General Permits Storm Water fees for fiscal year 2007 and 2008 (TCEQ Financial Administration Account No. 20024375), as documented during a record review conducted on September 25, 2008.</div>		
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
				Percent <div style="border: 1px solid black; padding: 2px;">0%</div>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
				Percent <div style="border: 1px solid black; padding: 2px;">0%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 2px; text-align: center;">N/A</div>			
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
				<div style="border: 1px solid black; padding: 2px;">\$0</div>
Violation Events				
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	Number of violation days	
		<div style="border: 1px solid black; padding: 2px;">1</div>		
mark only one with an x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$0</div>	
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	single event	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>		
No administrative penalty is recommended because penalty and interest will be assessed at the next billing.				
Good Faith Efforts to Comply		0.0% Reduction	<div style="border: 1px solid black; padding: 2px;">\$0</div>	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
Ordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
N/A	x	(mark with x)		
Notes	<div style="border: 1px solid black; padding: 2px;">The Respondent does not meet the good faith criteria for this violation.</div>			
Violation Subtotal				<div style="border: 1px solid black; padding: 2px;">\$0</div>
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$0</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px;">\$0</div>	
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$0</div>

Economic Benefit Worksheet

Respondent Warren Hughes dba Hughes Development, Inc.

Case ID No. 36600

Reg. Ent. Reference No. RN105109011

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN603120957 HUGHES DEVELOPMENT, INC Classification: AVERAGE Rating: 4.00
Regulated Entity: RN105109011 HUGHES DEVELOPMENT Classification: AVERAGE Site Rating: 4.00
LONESTAR ESTATES PHASE ONE

ID Number(s):

Location: SE of INTX FM 439 & WESTCLIFF RD, KILLEEN, BELL CO

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: October 06, 2008

Agency Decision Requiring Compliance Enforcement

Compliance Period: October 06, 2003 to October 06, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Jecha Phone: 512 239 2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 03/24/2008 (638223)

2 08/29/2008 (688753)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/24/2007 (594309)

Self NO

Classification: Moderate

Report?

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Rqmt Prov: PERMIT CGP; Part II; Section D(2)(b&c)

Description: Failure to post a completed construction site notice.

Self NO

Classification: Moderate

Report?

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Rqmt Prov: PERMIT CGP Part III; Section F(2)

Description: Failure to maintain best management practices (BMPs) in an effective operating condition.

Date: 03/20/2008 (638223)

Self NO

Classification: Moderate

Report?

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Rqmt Prov: PERMIT CGP; Part II; Section D(2)(b&c)

Description: Failure to post a completed construction site notice.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Rqmt Prov: PERMIT CGP Part III; Section F(2)
Description: Failure to maintain best management practices (BMPs) in an effective operating condition.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WARREN HUGHES DBA HUGHES
DEVELOPMENT, INC.,
RN105109011

§
§
§
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§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2008-1565-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7 and 26, 40 CODE OF FEDERAL REGULATIONS pt. 122, and the rules of the TCEQ, which request appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Warren Hughes dba Hughes Development, Inc. ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates a residential subdivision construction site located southeast of the intersection of Farm-to-Market Road 439 and Westcliff Road, Killeen, Bell County, Texas (the "Site").
2. The Site discharged waste into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an investigation conducted on July 18, 2008, a TCEQ Waco Regional Office investigator documented that the Respondent failed to obtain authorization to discharge storm water associated with construction activities. Specifically, original authorization to discharge storm water associated with ongoing construction, was previously authorized under Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit ("CGP") No. TXR150000, Part II Section D1(b) (effective March 5, 2003), however Respondent failed to submit an Notice of Intent ("NOI") to renew authorization under this general permit within 90 days of the new effective date (March 5, 2008).

4. During a record review on September 25, 2008, a Central Office investigator documented that Respondent failed to pay General Permits Storm Water fees for fiscal years 2007 and 2008 (TCEQ Financial Administration Account No. 20024375).
5. Respondent received notice of the violations on or about November 2, 2008.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Warren Hughes and Hughes Development, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on February 9, 2009.
7. By letter dated February 9, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDPRP. According to the return receipt "green card", Respondents received notice of the EDPRP on February 17, 2009, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 26, 40 CODE OF FEDERAL REGULATIONS pt. 122, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Respondent failed to obtain authorization to discharge storm water associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4); 40 CODE OF FEDERAL REGULATIONS § 122.26(c); and TPDES CGP No. TXR150000, Part II Section D1(b).
3. As evidenced by Finding of Fact No. 4, Respondent failed to pay General Permits Storm Water fees for fiscal years 2007 and 2008 (TCEQ Financial Administration Account No. 20024375), in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

5. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of seven thousand two hundred eighty dollars (\$7,280.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of seven thousand two hundred eighty dollars (\$7,280.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and the Respondents compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Warren Hughes dba Hughes Development, Inc.; Docket No. 2008-1565-WQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall implement the following technical requirements:
 - a. Within 15 days after the effective date of this Order, Respondent shall submit payment for all outstanding fees including any associated penalties and interest, and with the notation, "Warren Hughes dba Hughes Development, Inc.; Financial Administration Account No. 20024375".
 - b. Within 30 days after the effective date of this Order, Respondent shall develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent and associated fees to comply with the Construction General Permit requirements, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c) to:

Storm Water and Pretreatment Team, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Frank Burleson, Water Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Ste. 2500
Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent. Respondent are ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent have not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Warren Hughes dba Hughes Development, Inc.
Docket No. 2008-1565-WQ-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF REBECCA M. COMBS


STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Rebecca M. Combs. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Warren Hughes and Hughes Development, Inc." (the "EDPRP") was filed with the Office of the Chief Clerk on February 9, 2009.

I sent the EDPRP to Respondents at their last known address on February 9, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Respondents received notice of the EDPRP on February 17, 2009, as evidenced by the signature on the card.

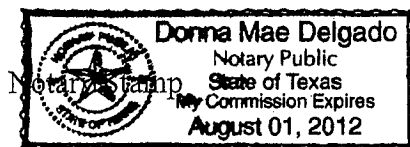
More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference".

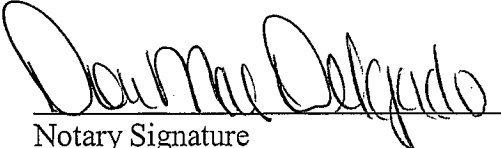


Rebecca M. Combs
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rebecca M. Combs, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 8th day of April, 2009.





Notary Signature